

12-28-2006

## DFAIT's 2006 Annual Human Rights Report

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THIS IS EXHIBIT I TO THE

AFFIDAVIT OF JO WOOD

SWORN ON JULY 16, 2008

A handwritten signature in black ink, appearing to be 'J. Wood', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

A Commissioner for Taking Affidavits

**THEODORIS Lise -GHH -C4**

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From: KHRTM -C4R  
Sent: December 28, 2006 3:20 AM  
To: EXTOTT -GHH -C4; EXTOTT -FSDN -C4  
Cc: EXTOTT -RFS -C4; SINCLAIR Robert -GHH -C4; RASHID Yusef -GHH -C4; EXTOTT -GHC -C4; EXTOTT -GEE -C4; EXTOTT -ICT -C4; EXTOTT -IRP -C4; EXTOTT -IRH -GHA -C4; GENEV -GR -C4; PRMNY -GR -C4; WSHDC -GR -C4; WSHDC -WIBRD -C4; WSHDC -WIMF -C4; -ADDIS -C4R; Citizenship and Immigration -C4R; CIDA -C4R; Privy Council Office / Foreign & Defence Policy -C4R; Privy Council Office / IAS -C4R; NDHQ OTT D POL DEV -C4; Export Development -C4R; Finance Canada, Department of -C4R; Justice, Department of -BH; Justice, Department of -BH; NDHQ OTT J2 DSI -C4; Canada Border Services Agency -C4R; NROBI -C4R; NROBI -DR -C4R; NROBI -GSRP -C4R; EXTOTT -RFD -C4; -DSLAM -C4R; -CAIRO -C4R; -CAIRO -DR -C4R  
Subject: KHGR0214-Sudan: Human Rights Report 2006

**KHGR0214**

**CONFIDENTIAL**

**Annual Human Rights Report - 2006  
Sudan**

**1. Summary Paragraph**

Despite a formal commitment by the Government of Sudan to human rights and democratic principles, the overall human rights situation deteriorated in 2006. The picture is not even across the board: with the enactment of the Interim Constitution in 2006, a product of the Comprehensive Peace Agreement settling the southern civil war, the general human rights situation in the area administered by the autonomous Government of Southern Sudan has improved perceptibly. There have also been some marginal improvements in the north (particularly relating to freedom of religion), but these have been vastly overshadowed by the catastrophic situation in Darfur, characterized by increasing violence against civilians and aid workers, and myriad human rights violations. The human rights situation is marked by ongoing chronic problems regarding both political will and administrative capacity regarding the judiciary, police force abuses, deteriorating prison conditions and threats to freedom of expression. Gender-based violence (notably rape and sexual harassment, and attendant mental health concerns) against girls and women in Darfur and in camps for internally-displaced persons throughout Sudan remains of great concern.

**II. Overview**

**A. Overall Trends**

The trend line for human rights issues in Sudan in 2006 was negative. Though incremental progress is being made on implementation of the Comprehensive Peace Agreement (CPA) which ended the two-decade long civil war in southern Sudan, human rights issues are only incidentally part of the overall strategy of the autonomous Government of Southern Sudan (GOSS) as they tackle a huge array of security, administrative and social issues with minimal human or administrative infrastructure (though their intentions are, for the most part, good). The Darfur Peace Agreement (DPA), signed in May 2006, proved to be unstable and as of the time of writing (late December 2006), renewed violence in the area has seriously undermined human rights in Darfur. The one encouraging development was the signing of the Eastern Sudan Peace Agreement (ESPA), which headed off an incipient revolt centred on Red Sea and Kassala states. Though imperfect, it appears

to have reduced tensions in the area, permitting a return of UN agencies and NGOs to the region.

[REDACTED]

s.15(1) s.21(1)(a)

Particularly because of the ongoing conflict in Darfur, the Government's human rights record remained poor in 2006.

[REDACTED]

The Norwegian Refugee Council, a major NGO which administered some of the largest IDP camps in Darfur, was forced out of the country in late fall.

s.15(1) s.21(1)(a)

Militias in Darfur known as the "Janjiweed" and associated armed groups were responsible for extrajudicial killings and disappearances. Armed groups both for and against the government have killed and injured civilians and soldiers of the African Union Mission in Sudan (AMIS). Militias beat displaced persons, raped women in and near IDP camps, and harassed and detained IDPs.

[REDACTED]

and its policy of permitting militia leaders, military commanders and government officials to enjoy impunity from prosecution constitute a fundamental obstacle to any improvement in Sudan's human rights record.

s.15(1) s.21(1)(a)

Outside of Darfur, Government security forces beat, harassed, arbitrarily arrested and detained incommunicado opponents or suspected opponents of the Government, and there are also reports of torture.

The adoption of the new Interim Constitution in 2005 gave hope that a greater respect for human rights would come to Sudan, however, the institutions in support of human rights provided for in the Interim Constitution are barely formed and have not discussed anything beyond procedure so far during their infrequent meetings. There is a worrying continuation of past trends in human rights violations, even outside Darfur, particularly with respect to protection of civil rights and the treatment of internally displaced persons (IDPs). The attempts to forcibly relocate IDPs in Khartoum State in 2006 continued in 2006. While local UN agencies support in principle the intent of the national and state governments in Khartoum to re-plan Khartoum state to improve living conditions for the urban poor, the re-zoning process violates fundamental human rights, including the right to housing, the right to an adequate standard of living and the prohibition on arbitrary interference in the home and family. Attempts at forced relocations resulted in increased IDP vulnerability and undermined the right of return voluntarily, in a safe and dignified manner. Moreover, attempts at forced relocation were often accompanied by violence, as occurred in early 2006.

Civil and political rights are also threatened by crackdowns on civil demonstrations (generally peaceful in nature). In September 2006, demonstrations protesting significant price hikes for staple commodities (sugar, cooking oil, petrol) in advance of Ramadan, when these commodities are in particular demand, were violently suppressed by security authorities. There were significant injuries and arrests (generally of short duration), but no deaths. The Government is routinely accused of provoking civil unrest in the south through the funding of armed militias that destabilize SPLM-administered areas. A particularly violent clash took place in Malakal in December 2006, but like most similar events, there is no ironclad linkage between the Khartoum government and the armed militias.

Given the relationship between human rights and conflict, peacebuilding efforts, particularly those that lead to a greater practical contact between tribes and regions, will provide an important opportunity to address these issues, which can be combined with advocacy on human rights issues. There would be two distinct strategies to pursue this. The first is through official channels, using, for example, the Government's Council on Human Rights.

s.15(1) s.21(1)(a)

s.21(1)(a)

#### B. Legal Context

s.15(1)

The Interim Constitution, adopted in July 2005, represented a small but significant steps forward in institutionalizing human rights principles

The Interim Constitution guarantees an extensive array (civil, political, economic, social and cultural) and addresses key issues such as relations between state and religion, ethnic diversity, and self-determination for Southern Sudan. The Government of Sudan created the Advisory Council on Human Rights (ACHR), chaired by the Minister of Justice; its Rapporteur is the Head of the Department of Human Rights and Humanitarian Law. Under the CPA, there was also established a Human Rights committee to institutionalize human rights structures and provide a transparent structure for bringing complaints forward and promoting human rights throughout the country.

There has been some progress on the establishment of a Sudan Human Rights Commission; after several months of procedural wrangling, a bill institutionalizing this body was to have been presented to the National Assembly in the current session (ending January 7).

and as of the time of writing (December 24), the legislation has not been introduced into the Assembly.

s.15(1) s.21(1)(a)

Both of the extant ACHR and the Interim Constitution display a disconnect between theory and reality when it comes to actual implementation of measures protecting human rights. NGOs such as Amnesty International acknowledge positive elements of the Interim Constitution, particularly the greater emphasis placed on the rights of women and children. However, they also noted serious concerns regarding the high level of immunity from prosecution for senior government representatives provided by the Constitution. Article 60 grants immunity from prosecution to the President and First Vice President for all crimes except those of high treason, gross misconduct of State affairs, and gross violation of the constitution. In these cases, action against alleged perpetrators can be undertaken only with the approval of 75% of the national legislature. Article 92 grants similar immunity for members of the national legislature. No reference is made to international legal standards in limiting immunity under either article.

Human rights activists also dispute the revision of Article 33 of the Interim Constitution to include a prohibition on cruel, inhuman or degrading treatment, but providing no measures for punishment for those committing transgressions. The deletion of the word "punishment" from language otherwise consistent with international standards appears to breach Sudan's obligations under Article 7 of the International Covenant on Civil and Political Rights (ICCPR), to which Sudan is a party. The Interim Constitutions also maintains the death penalty, including to those under 18 years of age. This is incompatible with Sudan's legal obligations under the Convention of the Rights of the Child, the ICCPR and the African Charter on the Rights and Welfare of the Child.

The Interim Constitution prohibits arbitrary arrest and detention without charge, however, in practice, this is not enforced. Political detainees, including many prisoners of conscience, continue to be held in prolonged incommunicado detention without trial under Article 31 of the National Security Forces Act.

The Sudanese government continues to renew adamant objections to any referral of Sudanese nationals to the International Criminal Court (ICC), arguing that Sudan is an independent and sovereign state with a capable, self reliant and impartial judiciary. The Minister of Justice announced that the Government would cooperate with the ICC, but that the ICC would not be accepted as a substitute for the national judiciary. Cooperation with incoming ICC delegations during the year has been described by participants as grudging and incomplete. Sudan is not a signatory to the Rome Charter.

### C. Political Context

Despite the creation of a Government of National Unity (GNU) and an autonomous Government of Southern Sudan (GOSS) in 2005 following the signing of the CPA, and the inclusion of one of the Darfur rebel groups, the Minni Minawi faction of the Sudan Liberation Army, upon the signing of the Darfur Peace Agreement in May 2006, Sudan's government operations remain essentially those of the pre-2005 authoritarian government, which all effective national political power lay in the hands of President (and Field Marshal) Omar Hassan al Bashir, [REDACTED]

[REDACTED] The NCP has been in power since the 1989 military coup. [REDACTED]

[REDACTED] Sudan's society tends to be conservative but not fundamentalist.

s.15(1)

s.21(1)(a)

The GOSS maintains considerable autonomy for strictly southern issues, but key national ministries (energy and mining, defence, interior, finance and justice) remain under the exclusive control of the NCP. Although considerable progress has been made in setting up transitional government institutions, the ruling NCP seems reluctant to share in any genuine sense political and economic power. The composition of the GNU, in which the NCP and SPLM jointly hold 80 percent of the seats in the national legislature, contributes to their overwhelming dominance of the national legislature. [REDACTED]

s.15(1)

s.21(1)(a)

In terms of NGOs and participation in government affairs, Sudanese civil society is vibrant and active. [REDACTED]

[REDACTED] This being said, in 2006 the Government continued to restrict freedom of speech, press, assembly and association, though the situation in areas administered by the GOSS is markedly more relaxed though still far from perfect. Government authorities in Khartoum generally permitted only government-authorized gatherings in major urban areas in the north, and routinely denied permission for or disrupted gatherings they perceived as not being politically oriented in their

favour. [REDACTED]

s.15(1)

The NGO Transparency International reported a widespread perception of corruption, and there are no laws providing for public access to information, nor are there conflict of interest laws or regulations in Sudan.

Women have the right to vote and participate in all facets of government. Women's rights are guaranteed in all legislation and the constitution, which permit women to assume public work and posts on an equal footing with men. Limits on women's participation tend to be more a factor of cultural issues rather than institutionalized discrimination.

**Declared commitment of the Government to human rights and democratic principles**

Sudan has signed and ratified the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights of the International Bill of Human Rights. It has not signed the Optional Protocol to the International Covenant on Civil and Political Rights or the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

Sudan signed and ratified the International Convention on the Elimination of All Forms of Racial Discrimination. Sudan has not signed the Convention on the Elimination of All Forms of Discrimination Against Women, nor the Optional Protocol to the Convention on the Elimination of Discrimination Against Women.

Although Sudan signed the Convention against Transnational Organized Crime in 2000, Sudan has not signed the Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, nor the Protocol Against the Smuggling of Migrants by Land, Sea and Air.

Sudan has not signed the Slavery Convention or the Protocol amending the Slavery Convention. Sudan has signed and ratified the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Sudan has not signed the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

Sudan has not signed the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Sudan has signed and ratified the Convention on the Rights of the Child and the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Sudan has signed, but not ratified, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts.

Sudan has not signed the Freedom of Association and Protection of the Right to Organize Convention, although it has signed and ratified the Right to Organize and Collective Bargaining Convention.

Sudan has signed and ratified the Convention concerning Forced or Compulsory labour, Equal Remuneration Convention, Abolition of Forced Labour Convention, Discrimination (Employment and Occupation) Convention, and the Employment policy Convention.

Sudan has signed and ratified the Convention relating to the Status of Refugees and the Protocol Relating to the Status of Refugees.

**Degree of cooperation of government with UN Mechanisms and Treaty Bodies, including  
Special Rapporteurs; and the visits by UN officials, especially the UN High Commissioner for  
Human Rights.**

The degree of cooperation of the Government of Sudan with UN mechanisms can charitably be described as lukewarm, chiefly characterized by active obstructionism.

In October, the Government of Sudan declared UNMIS head Jan Pronk 'persona non grata,' officially because of his 'inappropriate' comments on poor morale in the Sudanese military, but actually because of his assertion that the Government of Sudan is actively violating the Darfur Peace Agreement through its aerial bombardment of the region, massing of troops, conducting a military offensive and re-arming the Janjiweed through their incorporation into quasi-governmental bodies in the region. The GOS has obstructed routine UNMIS operations, particularly through lengthy customs delays for incoming equipment.

s.13(1)(b)

s.15(1)

[REDACTED] and leaders during their visits to Sudan in 2006. Egeland visited twice; in May he was not permitted to enter Darfur; in November he was permitted to land but was denied freedom of movement, which resulted in his curtailing his visit. [REDACTED]

[REDACTED] A joint AU/UN team seeking GOS approval for UN engagement in Darfur, jointly headed by Said Djinnit and Jean-Marie Guehenno, [REDACTED]

s.13(1)(b)

Though not specifically relating to the UN, it should be noted that GOS cooperation with the African Union and AMIS has similarly been poor. [REDACTED]

s.13(1)(b)

as of the time of writing (27 Dec) there is still no replacement for this vital position. Though agreements in principle have been announced for UN support for AMIS, the first small step in this process, announced on October 1, was not operationalized until December 26. [REDACTED]

s.15(1)

**Activities of corporations, particularly Canadian, that have or could have a positive or negative human rights impact on local communities.**

The Canadian corporate presence in Sudan is minimal, and relates mostly to logistics and agriculture-sector work that have minimal human rights implications. A longstanding legal case in the United States against the former operations of Canadian-owned Talisman Energy in the petroleum sector during the southern civil war was dismissed in November 2006. Talisman withdrew from Sudan in 2004; they have continued funding their corporate social responsibility projects (a model farm and a health clinic) in their former area of operations beyond the original two-year sunset date, in the hope that limited ongoing support may make these projects self-sustaining. These projects have not been picked up by the members of the consortium that bought out Talisman's oil interests.

Chinese engineering firms involved in work on the Merowe Dam on the Nile River continue to override traditional war use practices to divert waste from their project, engendering much local opposition to their work. In common with virtually all of the many large-scale infrastructure projects undertaken by the People's Republic of China in Sudan, local labour is generally excluded in favour of guest workers from the PRC. There have been many recent reports that Chinese petroleum firms working in Unity and Upper Nile state are using practices that pose an environmental and health threat to local populations, but these reports remain unconfirmed.



Highly secretive gold mining projects in the remote mountainous region of Red Sea State, north of Port Sudan, have stirred up much local resentment, both on environmental grounds and on the dearth of employment opportunities. These projects are undertaken by French companies. The remoteness of the region, and the difficulty in obtaining travel permits to the region, [REDACTED]

s.15(1)

**Where UN peacekeeping/peacebuilding missions are in place, describe**

s.21(1)(a)

UNSC Resolution 1590 (24 March 2005) established the United Nations Mission in Sudan (UNMIS) to support implementation of the Comprehensive Peace Agreement signed between the Government of Sudan and the Sudan People's Liberation Movement on 9 January 2005. They are also mandated to perform certain functions relating to humanitarian assistance, and the protection and promotion of human rights. Active UN agencies in Sudan include UNDP, OCHA, OHCHR, UNHCR, UNFPA, UNMAS, UNICEF, WFP AND WHO. Several of these agencies have units dedicated to gender-based violence (GBV), particularly UNFPA, which has been mandated to initiate GBV prevention and treatment programmes in Darfur. It is working with federal and state officials to implement measures to protect women and girls, change harmful policies and build capacity with UN agencies, government institutions and NGOs in this region.

In May 2005, the Government of Sudan signed the Darfur Peace Agreement (DPA) with one of the (then three) major rebel groups in the region, the Sudan Liberation Army/Minni Minawi. This should have signalled the transition of the African Union Mission in Sudan (AMIS), established to monitor the Ndjamena Ceasefire of April 2004 to a UN peacekeeping mission. [REDACTED]

[REDACTED] This appears to supersede [REDACTED] s.15(1)  
the establishment of a UN force in Darfur described in Resolution 1701 passed in September 2005. As of the time of writing of this report, the eventual disposition of the Darfur force remains unclear.

In the meantime, the Darfur Peace Agreement has been repeatedly violated by all parties, signatory or not. Sudanese government forces and allied militias (including the so-called "Janjiweed," who were supposed to be disarmed under the DPA but instead have been incorporated - and re-armed - in quasi-governmental forces in the region) continue military operations which often include attacks on civilian populations. Return attacks by opposition groups also include attacks on civilian populations. Aid camps and convoys are now being specifically targeted, as are AMIS operations, making it problematic for AMIS to overcome their own internal challenges to undertake its security mandate. There have been over a dozen NGO deaths this year, and between deteriorating security and Government of Sudan obstruction, major NGOs are on the verge of withdrawing from Darfur. Should this happen, this will place UN humanitarian activities in the region in grave jeopardy.

#### **D. Canadian Interests**

**Relevance/Implication for Canadian foreign policy interests, including general interest in regional stability and for specific bilateral activities**

The current situation in Sudan has serious implications for Canadian foreign policy interests, [REDACTED] s.15(1)  
[REDACTED] Ongoing conflict in Sudan jeopardizes regional stability (notably in Chad and the Central African Republic, and to a lesser extent in Eritrea and Uganda).

In view of the ongoing and deteriorating conflict in Darfur, the fragility of the CPA in the South,

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and other smaller but nonetheless potent pockets of regional discontent, Canadian efforts continue to be multi-dimensional, ensuring continued responsibility with both our commitment to and investment in the various Sudanese peace processes, and the peace support operations of the UN and AU. At the same time, it will be important to maintain the high level of commitment for humanitarian activities in Sudan to prevent civilian desperation provoking a slide back into conflict. In terms of regional stability,

Sudan's current situation has also become a setting for Canada to demonstrate strong support for the new International Criminal Court; in 2005, Canada provided \$500,000 for the Court's newly established mandate to investigate and prosecute crimes against humanity in Darfur, Sudan.

#### **Guidance relevant for processing export permits for military goods**

Although Sudan's Interim Constitution specifically protects human rights, implementation is weak, especially in conflict-affected Darfur. Outside conflict areas, a weak judicial system, deplorable prison conditions, and reports of violations of human rights by police and opposition groups reflect a deteriorating human rights record. Based on this information, there is a risk that arms - both small arms and large military equipment such as helicopters, aircraft or tanks - could be used by the Government of Sudan or an armed movement, either for or against the government and against civilians to commit human rights violations. At present, Canadian policy is not to approve exports of military goods to Sudan. We believe it important to maintain this policy..

### **III. STATE OF INTERNATIONALLY RECOGNIZED RIGHTS AND FREEDOMS**

#### **A. CIVIL AND POLITICAL RIGHTS**

##### **Physical Integrity and Security of the Person**

In the context of conflict, including the intensified conflict in Darfur, the whole list of violations apply. The situation has improved in the sense that the end of the north-south conflict and the defusing, at least for the moment, of the Lord's Resistance Army conflict, has reduced the number of cases of individuals forced into conflict. However, incidence of child soldiers and especially violence against women still occur in Darfur. There are reports that non-conflict torture (e.g. flogging in prisons) has decreased, although its eradication would require a change in culture in the police force. The issue of slavery and servitude historically has been a constant in Sudan, particularly in relation to disappearing tribal customs. Slavery issues appear to be very considerably diminished in southern Sudan, though the child soldier phenomenon is likely to continue in some measure as long as conflict in Sudan continues, particularly among rebel groups. Freedom of movement has also been restricted throughout Sudan. Sudanese require an exit visa to leave the country; diplomats, NGOs and international require government travel permits for any travel outside Khartoum; UN and NGO access to distressed areas (notably Darfur) for humanitarian reasons continues to be a constant issue (at the time this report was released, the UN had pulled all but minimal staff from West Darfur for security reasons and has limited staff appreciably in North Darfur).

##### **Rule of Law/Due Process**

The Constitution provides for fair and prompt trials; however, this is not respected in practice in many cases. Trials in regular courts nominally met international standards of legal protections. The accused normally have the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment. However, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court. There are reports

that the Government sometimes denied defence counsel access to the courts.

#### **Political/Democratic Rights and Freedoms**

The Constitution provides for freedom of thought, expression, and of the press "as regulated by law"; however, the Government restricts these rights in practice. The year has seen minor improvements in the ease with which human rights activists and others can gather, however, this is seen to be a result of increased monitoring by the international community, not a change in government practices. Government detentions, intimidation, and surveillance of journalists and suspensions of newspapers continued to inhibit open discussion of political issues. Journalists practised self censorship, and the Government confiscated entire issues of newspapers if it objected to an article.

The Constitution provides for freedom of religion throughout the country, and states that Sudan is a 'multi-religious state.' Though in the northern part of the country the government enforces an 'Islamization' policy, there are signs that the application of the policy is easing - for example, for the first time in recent memory, Muslims were allowed to keep restaurants and food outlets open during the day during Ramadan to cater to non-Muslims. This year, the Government of National Unity has facilitated Muslim-Christian dialogues under the auspices of the Sudan Inter-Religious Council, an NGO supported by the Government.

The Constitution provides for freedom of assembly; however, the Government continued to severely restrict this freedom. The authorities generally permitted only government-authorized gatherings and routinely denied permission for or disrupted gatherings they perceived as politically oriented. Islamic orders associated with opposition political parties, particularly the Ansar (the Umma Party) and Khatimia (the Democratic Unionist Party or DUP) continued to be denied permission to hold large public gatherings during most of the year.

Security forces used excessive force, including beatings, and tear gas, to put down demonstrations, such as that protesting the government's move to increase prices of staple commodities in September, which was put down forcibly.

#### **B. ECONOMIC, SOCIAL, CULTURAL RIGHTS**

##### **Right to the highest attainable standard of physical and mental health**

A combination of insecurity, drought, widespread looting/militia attacks and the missed planting season increased the risk of famine as almost 2 million people in Darfur (estimated population of 5-6 million) were in need of food aid. Lack of sanitation and health services in the IDP camps throughout Sudan caused massive outbreaks of diseases such as diarrhea and malaria which caused thousands of deaths, especially in vulnerable groups such as infants and the elderly. Infant mortality and disease outbreaks remain high in all IDP camps. Although the current situation may reflect the consequences of human rights violations, conflict in Sudan is generated by inadequate respect for these rights, not the other way around.

##### **Right to an adequate standard of living**

Sudan is both a least developed and low-income\*, food-deficit country ravaged by the civil strife across the south for several decades and since 2003, due to conflict in the west. Sudan exhibits poor socio-economic indicators: ranks 141 on the Human Development Index (2005); life expectancy is 56.4 years, and 17 percent of children under the age of five are underweight. Of Greater Darfur's estimated population of 6.5 million, over 70 percent is directly or indirectly affected

by a conflict that has destroyed the region's infrastructure. Some 2.5 million people are at-risk and require food assistance. Successive Sudanese governments of whatever political stripe have systematically marginalized large parts of rural Sudan. Inadequate health care and sanitation are characteristic of rural life in Sudan, regardless of the level of political discontent.

(\*raw statistics from the World Bank, among others, suggest that Sudan's GDP/capita may be approaching \$1000. Such figures should be approached with caution, both because population estimates are dubious in the absence of a national census in the last 50-plus years, and because income distribution is extremely skewed, especially between Khartoum State and the rest of the country).

#### **Right to social security**

There is a social security system and pension structure in place for those in working in Sudan's formal economy. New structures and social security institutions are detailed in the CPA for South Sudan, but implementation has been extraordinarily slow, mostly due to lack of bureaucratic capacity (both infrastructural and human).

#### **Right to seek work, just and favourable conditions**

Women are not systematically discriminated against in the pursuit of employment, though cultural biases may occur. The Constitution prohibits forced or compulsory labour, including by children. There are some reports that such practices continue, however, unlike in the past, slavery no longer appears to be a significant problem. There are known cases of both the Government and rebel factions who conscript men and boys forcibly into the fighting forces, though in many cases boys are attracted to militias because of the better standard of living they provide. The Constitution provides for the right of association for economic and trade union purposes; however, the Government denied this right in practice. Only the government-controlled Sudan Workers Trade Union Federation (SWTUF) can function legally, and all other unions are banned. Strikes are considered illegal unless the Government grants approval, which it has never done. The Ministry of Labour and Administrative Reform, the Sudanese Businessmen, and Employers Federation, and the SWTUF have agreed on minimal conditions for labour (hours, health and safety standards, wage) but these standards are not strictly enforced.

#### **Right to education**

Education is compulsory and free for boys and girls, however, as with other failing or fragile countries, the right to education has been seriously disrupted by conflict and socio-economic hardship. In addition, small fees for books and equipment, and compulsory school uniforms, can pose a significant financial burden on poor or large families. In some areas of Sudan, there are simply no schools to attend. According to the World Bank, the average enrollment rate in primary education is about 58 percent, with wide geographic variations, including levels below 20 percent in some states.

#### **Right to participate in cultural life of community**

In terms of cultural and religious rights, the Constitution provides for freedom of religion; however, in practice, the Government continued to place restrictions on non-Muslims, non-Arab Muslims, and Muslims from tribes or sects not affiliated with the ruling party. The CPA provides for South Sudan being exempt from Sharia Law, which has been implemented. Under the CPA, "Khartoum" to be exempt from Sharia law, as the national capital, but ongoing bickering over the definition of "Khartoum" (Khartoum State vs. Khartoum City vs. the three-city metropolitan unit

comprising Khartoum, Khartoum North and Omdurman) has resulted in this provision not having been implemented.

### **Right to development**

Economic, cultural and social development in Sudan has continued to be overshadowed by the aftermath of the southern civil war and the conflict in Darfur, which has resulted in humanitarian emergencies, fighting, internal displacement of civilians and severe food shortages continuing to cause enormous suffering and loss of life. Against this background, Sudan remains one of the poorest countries in the world, with widespread poverty and deprivation, a fragile economic base and run-down, if not shattered, infrastructure. A large but unmeasured proportion of the population lives on less than US\$1 per day. The Government places considerable blame on the international community for not funding development projects; for the most part, the international community resists this because of the enormous expenditures by the government in pursuit of regional conflicts (military and security expenditures are not included in the national budget; they are estimated to be close in size to the formal budget).

## **C. EQUALITY/DISCRIMINATION**

### **Freedom from discrimination**

The Constitution prohibits discrimination based on race, sex, or religious creed; however, informal discrimination against women and ethnic minorities continues. Mechanisms for social redress, particularly with respect to violence against women and children, were ineffective.

The Constitution provides for freedom of religion; however, in practice, the Government continues to place many restrictions on non-Muslims, non-Arab Muslims, and Muslims from tribes or sects not affiliated with the ruling party. The Government, which came into power in 1989, used Islamization as a political tool, and treated Islam as the state religion, declaring that Islam must inspire the country's laws, institutions, and policies. This continues to be the policy in the north and in national structures (e.g. the army), though it has been discontinued in the south under the GOSS.

### **Respect for minorities and their human rights and treatment of indigenous people**

Discrimination on ethnic grounds is endemic in Sudan, though it should be noted that much of what is described as 'ethnic' discrimination is more accurately described as 'tribal.' The population of Sudan is a multi-ethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, who form a majority of approximately 16 million persons, traditionally dominate the Government. The southern ethnic and tribal groups who were involved in the civil war (largely followers of traditional indigenous religions or Christians) number approximately 6 million. The Muslim majority and the Government discriminate against ethnic and tribal minorities in almost every aspect of society. Citizens in Arabic speaking areas who do not speak Arabic experienced discrimination in education, employment, and other areas; the reverse is often the case in the South. In 2006 inter-ethnic conflicts in the south, such as continued fighting between Dinka and Nuer or among Nuer tribes, were reduced in number and intensity but remain a political and social factor.

### **Promotion and protection of women's human rights and gender equality**

Gender-based violence is a serious concern in Sudan. Violence against women is not addressed in Sudan's criminal code, and in the context of international instruments on this subject (in common with most others), the administrative architecture to address violations does not exist.

In conflict affected areas, such as Darfur, women and girls are targeted and raped by the militia whenever they venture out from their villages to collect essential water or firewood to prepare food. On top of the violence committed against women, the women also face consequences such as social stigmatization, denial of their economic, social and health rights, and the destruction of the social fabric of their communities. The Government has been extremely slow to acknowledge the severity of the problem and often the trauma is exacerbated by local authorities who require rape victims to file a police report before they can receive medical treatment, despite an Aug 2005 decree that waived the requirement. The UN and NGO sources confirmed that the decree was not regularly observed and consequently women distrust the police and rarely file police reports. The creation of a commission to investigate rape allegations in 2005 has, unfortunately, been neither active nor effective in stopping assaults against women.

Displaced women from the South were vulnerable to harassment, rape, and sexual abuse in IDP camps in Khartoum State and other parts of the country. The punishment for rape under the Criminal Act varies from 100 lashes to 10 years imprisonment to death. In most cases, convictions are not publicized; however, observers believed that sentences often were less than the maximum provided for by law. Pregnant unmarried women and young girls were convicted during the year for adultery. Most women are reluctant to file formal complaints against abuses, although it is legal grounds for a divorce. The police normally do not intervene in domestic disputes. More than three quarters of the population of Khartoum State women's prisons comprises Christian women from the IDP camps caught brewing traditional alcoholic beverages.

The Sudanese government has not lifted its reservations on some of articles of the Conventions on the Elimination of All Forms of Discrimination against Women (CEDAW). The government also maintains that Sudan would not accept the provisions of any international agreement that contradicts the Islamic religion and Sharia Law. Female genital mutilation (FGM) remains widespread - as high as 90% in the North according to UNICEF, although it is decreasing as a growing number of urban, educated families abandon the practice.

Some aspects of the law discriminated against women, including many traditional law practices and certain provisions of Sharia as interpreted and applied by the Government. In accordance with Islamic law, a Muslim woman has the right to hold and dispose of her own property without interference, and women are ensured inheritance from their parents. However, a widow inherits one-eighth of her husband's estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. It is much easier for men than for women to initiate legal divorce proceedings. Because, under Islamic law, a non-Muslim woman is viewed as taking on the religion of her husband at marriage, a Muslim man may marry a Christian or Jew, and their children will be considered Muslim. The same is not true for a Muslim woman, who cannot legally marry a non-Muslim unless he converts to Islam. Since traditionalist marriages are not licensed or recognized as official by the State, this prohibition usually was neither observed nor enforced in areas of the South not under government control or among Nubians (most of whom are Muslims). Women cannot travel abroad without the permission of their husbands or male guardians.

#### **Children's rights**

Security forces and militias (both government and rebel) were responsible for forced labour (including forced child labour) and forced military conscription of underage men. Child labour was widespread.

The Lord's Resistance Army (LRA) kidnapped more than 20,000 Ugandan children, took them back to the southern part of Sudan, and forced them to become sex slaves, pack animals, or soldiers. Many of them have been killed. The Government permitted the Ugandan army access to

the South to pursue the LRA. A provisional cease-fire was established in November 2006, but the situation remains extremely fragile.

#### **Rights of persons with disabilities**

The Government does not discriminate against persons with disabilities but has not enacted any special legislation for persons with disabilities, such as mandating accessibility to public buildings and transportation.

#### **Sexual orientation**

Homosexuality is a crime, but no one has been convicted on the charge.

#### **Rights of migrants, internally displaced persons, and refugees**

At least 4 million persons have been displaced internally due to civil wars and at least another 200,000 had fled to Chad. Of the 4 million internally displaced persons in Sudan (excluding Darfur), approximately 2 million currently reside in and around Khartoum including 325,000 in 4 official IDP camps and 1.7 million in approximately 30 squatter areas. Since 1989 at least 665,000 IDPs have been affected by GoS's re-planning policy in Khartoum state, which includes demolitions of current locations of displacement. The process of re-planning undertaken by the GoS has resulted in violations of international human rights law, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (ICCPR and ICESCR ratified by GoS in 1986) and contraventions of the Guiding Principles on Internal Displacement. The process has included little or no consultation with those affected; forced relocation to alternative areas; failure to ensure life-sustaining services (water sources, health care, food, education) are in place in the new location prior to relocation; failure to provide an effective right of appeal; failure to provide compensation for property damaged; and failure to ensure appropriate allocation of new plots.

### **IV. CANADIAN REPRESENTATIONS/INTERVENTIONS**

#### **Summary of representations/demarches made over past year on human rights issues**

Following the January 2006 Federal Election, the structure of the DFAIT-based Sudan Task Force was confirmed, incorporating the advocacy role formerly undertaken by the Special Advisory Team (comprising Ambassador Robert Fowler and Senators Romeo Dallaire and Mobina Jaffer). The Task Force has continued to press human rights issues with Sudanese authorities in Ottawa on a continuing basis, as well as making representations in Sudan during two visits during 2006 (xxx and December). The Task Force, through the Darfur Contact Group, coordinates policies and actions on, inter alia, human rights issues with other key players in Sudan (UK, USA, Norway, Netherlands, European Union, UN).

The issues of women's human rights and gender-based violence in Darfur was also raised as priority of the Canadian Government, most significantly in the negotiating process on the Darfur Peace Agreement in Abuja, Nigeria, during the first half of the year.

The Canadian mission in Geneva has received widespread recognition for its ongoing efforts at promoting human rights and accountability in Darfur, most recently through its co-sponsoring of a resolution in the Human Rights Council in December 2006 and its pursuit of a debate on Sudan in November 2006.

KHRTM regularly makes representations to the Government of Sudan in the form of

demarches on the Ministry of Foreign Affairs and other relevant agencies on human rights issues. Most recently Canada was part of a multi-nation joint demarche in support of NGO operations, particularly in Darfur; earlier in the year Canada was part of several joint demarches regarding forcible relocation of IDPs in Khartoum State. Human rights issues are an integral element in virtually all interaction with officials of the Khartoum government, the Government of Southern Sudan, and any rebel/opposition groups we encounter.

**Summary of Canadian programs and activities in support of human rights, e.g., support for human rights NGOs, human rights training, assistance, and election observers, cooperation on indigenous matters**

Canada's approach to the Sudan crisis is carried out using a multidimensional strategy addressing diplomacy, development and defense:

- (1) DFAIT, supports actively the African-Union led AMIS force in Darfur, which provides a degree of security for humanitarian activities in the region. DFAIT is also providing funding through the Human Security Program for a variety of peacebuilding initiatives that address sexual and gender-based violence, promote security sector and justice reform, provide training on human rights and international humanitarian law, strengthen governance institutions and community organizations and assist small arms reduction initiatives.
- (2) The Canadian International Development Agency (CIDA) provides funding for urgently needed humanitarian assistance, support for peacebuilding efforts and protection for those affected by the conflict. Since October 2003, Canada has provided humanitarian aid to the United Nations and non governmental organizations (NGOs) working in Darfur and other areas in Sudan.
- (3) The Department of National Defense (DND / CF), uses Canadian Forces personnel to provide expertise in the military planning process for an African Union led military operation in the Darfur region of Sudan, as well as providing military observers and Civilian-Military Affairs officers to UNMIS in the south. The RCMP also provides civilian police officers to UNMIS.

By means of the Human Security Program, Foreign Affairs Canada is supporting peacebuilding initiatives in Sudan, including projects aimed at: Assistance for International Criminal Court Analysis and Investigation in Darfur, Community Security and Arms Control Program for Sudan, Federal Governance in Sudan, Human Rights Training Project for Sudan, Preventative Action in Sudan, Sudan Small Arms Baseline Assessment, Sudanese Civil Society Capacity Building Initiative, UNDP Rule of Law Project for Sudan, and has provided Technical Assistance for Eastern Sudan Peace Talks, among others.

**Ideas/suggestions for areas where Canada could help improve the human rights situation in the context of Canada's foreign policy interests**

Events in Darfur and, to a less catastrophic extent, in southern Sudan show that the ruling NCP seems reluctant to genuinely share power. Poor security in Darfur, the east and the south appears to persist, with negative consequences for the CPA. The conflict in Darfur, in particular, has destabilised the region and spilled over into Chad and the Central African Republic.

At the same time, it is remarkable that peace, after decades of brutal civil war in the south, has held and that we are seeing some improvements on human rights issues outside of Darfur, particularly in the South, where there is a greater willingness towards political accommodation. Political changes at the centre, which have started - albeit very slowly - combined with steps toward effective decentralization may further create a more conducive context for addressing conflicts and



promoting a greater respect for human rights.



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s.15(1)

s.21(1)(a)

